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5 PAUL M. TEAHAN,  
6 Petitioner,  
7 v.  
8 C. DUCART,  
9 Respondent.

10 Case No. [15-cv-05747-JSC](#)  
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**ORDER TO SHOW CAUSE**

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14 **INTRODUCTION**

15 Petitioner, a prisoner of the State of California proceeding pro se incarcerated at Pelican  
16 Bay State Prison, filed a petition for a writ of habeas corpus claiming that prison officials are  
17 withholding his time credits illegally.<sup>1</sup> He has paid the filing fee. Because the petition states  
18 cognizable claims for relief, a response from Respondent is warranted.

19  
20 **BACKGROUND**

21 Petitioner is currently serving a sentence of 42 years in state prison for a gang-related  
22 crime committed when he was 17 years old in April 1994. At that time, state law allowed  
23 Petitioner to earn “good-time credits” against his sentence on a day-for-day basis, and such credits  
24 could only be withheld for disciplinary reasons. In December 2011, prison officials validated him  
25 as a gang associate and, pursuant to an amendment to the California Penal Code, prohibited him  
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28 <sup>1</sup> Petitioner has consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). (Dkt. No. 4.)

1 from continuing to earn good time credits. His release date was thereby postponed from April  
2 2016 to October 2020.

3 **DISCUSSION**

4 I. Standard of Review

5 This Court may entertain a petition for a writ of habeas corpus “in behalf of a person in  
6 custody pursuant to the judgment of a State court only on the ground that he is in custody in  
7 violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). It  
8 shall “award the writ or issue an order directing the respondent to show cause why the writ should  
9 not be granted, unless it appears from the application that the applicant or person detained is not  
10 entitled thereto.” *Id.* § 2243.

11 II. Legal Claims

12 Petitioner claims that prison officials violated his right to due process by failing to provide  
13 him with sufficient procedural safeguards when they validated him as a gang member. He also  
14 claims that withholding good time credits based upon his gang validation pursuant to a change in  
15 the California Penal Code violated the Ex Post Facto Clause. When liberally construed, these  
16 claims state cognizable grounds for federal habeas relief.

17 **CONCLUSION**

18 For the foregoing reasons and for good cause shown,

19 1. The Clerk shall serve a Magistrate Judge jurisdiction consent form, a copy of this  
20 Order, and the petition, and all attachments thereto, on Respondent and Respondent’s attorney, the  
21 Attorney General of the State of California. The Clerk also shall serve a copy of this Order on  
22 Petitioner.

23 2. Respondent shall complete and file the Magistrate Judge jurisdiction consent form in  
24 accordance with the deadline provided on the form.

1           3. Respondent shall also file with the Court and serve on Petitioner, within **ninety-one (91)**  
2 **days** of the date this Order is issued, an answer showing cause why a writ of habeas corpus should  
3 not be granted. Respondent shall file with the answer and serve on Petitioner a copy of all records  
4 of Petitioner's gang validation proceedings and subsequent withholding of time credits that are  
5 relevant to a determination of the issues presented by the petition. If Petitioner wishes to respond  
6 to the answer, he shall do so by filing a traverse (a reply) with the Court and serving it on  
7 Respondent within **twenty-eight (28)** days of the date the answer is filed.  
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9           4. Respondent may, within **ninety-one (91)** days of the date this Order is issued, file a  
10 motion to dismiss on procedural grounds in lieu of an answer. If Respondent files such a motion,  
11 Petitioner shall file with the Court and serve on Respondent an opposition or statement of non-  
12 opposition within **twenty-eight (28)** days of the date the motion is filed, and Respondent shall file  
13 with the Court and serve on Petitioner a reply within **fourteen (14)** days of the date any opposition  
14 is filed.  
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16           5. It is Petitioner's responsibility to prosecute this case. Petitioner must keep the Court  
17 informed of any change of address by filing a separate paper captioned "Notice of Change of  
18 Address." He must comply with the Court's orders in a timely fashion. Failure to do so may  
19 result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil  
20 Procedure 41(b).  
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22           **IT IS SO ORDERED.**

23 Dated: January 25, 2016

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JACQUELINE SCOTT CORLEY  
United States Magistrate Judge